IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

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WRIT PETITION NO : 11627 of 2004

Between:

M.Venkateswara Rao, S/o Venkata Subbaiah,

aged 59 years, Occupation : Business,
R/o Takkellapadu, Kakani Mandalam,

Guntur District

..... PETITIONER

AND

1 M/s Vijaya Bank, Arundalpet, Guntur, rep.by its Branch Manager
2 M/s Vasant Enterprises Pvt.Ltd rep.by P.Ravindranath Tagore,

Managing Director, Tobacco Colony, Guntur
3 G.Samar Kumar, S/o Late Venkaiah, Director,

M/s. Vasant Enterprises Pvt. Ltd., Tobacco Colony, Guntur
4 G.Vasant Kumar, S/o
D.No.32-6-4, Prajasakthi Nagar, Vijayawada

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, declaring the action of the first respondent bank in dealing/transacting with unconcerned third parties viz.G.Vasant Kumar, the 4th respondent, in respect of the affairs of M/s Vasanta Enterprises Pvt. Ltd., Guntur as arbitrary, illegal and opposed to law and further direct the respondents herein restraining them from liquidating properties which

were pledged as collateral security with the first respondent Bank at the time of sanction of loan.

Counsel for the Petitioner: Mr. H. SRINIVASA RAO

Counsel for the Respondent No.1: MRS.P.BALA RANI, Advocate

Counsel for the Respondent Nos.2 to 4 : ----------

The Court at the admission stage made the following :

ORDER:

The writ petition is filed seeking direction to the first respondent not to sell the movable and immovable properties of the second respondent company, which were pledged with the first respondent-Bank, as a collateral security.

The case of the petitioner is that he is Ex-Managing Director of the second respondent company, presently he along with his wife is having 2635 shares in the second respondent company and in order to make illegal gains, the third respondent in collusion with the other Board of Directors has brought the fourth respondent, who is no other than his brother into action and are trying to sell away the immovable and movable properties of the second respondent company, which were pledged with the first respondent-Bank, at a cheaper rate on the ground of discharging the loan amount due to the first respondent-Bank under 'one time settlement' with an intent to cause loss to the shareholders of the second respondent-company including the petitioner and his wife. Questioning the deceitful action of the respondents, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned counsel for the first respondent-Bank.

Even according to the averments made in the affidavit filed in support of the writ petition, the first respondent-Bank filed O.A. No.500 of 2002 before the Debt Recovery Tribunal, in which the petitioner herein and his wife were also shown as defendants and that in the month of May, 2004, the said O.A. was disposed of, without giving any opportunity either to the petitioner or to his wife to contest the matter, as the defendants were remained *Ex parte*. Now, the first respondent-Bank is trying to sell away the pledged properties of the second respondent in collusion with the respondent Nos.3 and 4 and other Board of Directors.

In the above circumstances, it is clear that in order to avoid the civil litigation and without availing the remedy of appeal, if any, against the Decree or order in said O.A., the petitioner came up with the present writ petition with frivolous contentions. There are no merits in the writ petition.

Accordingly, the writ petition is dismissed.

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N.V. RAMANA, J

09th July, 2004.

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Branch Manager, M/s Vijaya Bank,

Arundelpet, Guntur.

2. Two CD copies.